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February 10, 2005

Receiver: Examiner Nguyen T. Ha
USPTO

FAX # : 703-872-9306

Sender: Tomika D. Thomas, Patent Secretary to:
DESMUND GEAN

Our Ref. No.: PWRSP009/PWR-026995

Re: Response to Election/Restriction Requirement

Pages Including Cover Sheet(s): 5

MESSAGE:

CONFIDENTIALITY NOTE

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FEB 10 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Frank Anthony Doljack, *et al.* Attorney Docket No.:
PWRSP009/PWR-026995

Application No.: 10/781,571

Examiner: Ha, Nguyen T.

Filed: February 17, 2004

Group: 2831

Title: ACTIVE BALANCING MODULAR
CIRCUITS

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted via facsimile to the U.S. Patent and Trademark Office, Attention: Examiner Ha, Nguyen T. at facsimile telephone number (703) 872-9306 on February 10, 2005.

Signed: 

Tomilka Thomas

AMENDMENT TRANSMITTAL

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450


Sir:

Transmitted herewith is an Amendment in the above-identified application.

The fee has been calculated as shown below.

	Claims After Amendment		Highest Previously Paid For	Present Extra	Small Entity Rate Fee	Large Entity Rate Fee
Total Claims		MINUS			x 25 =	x 50 =
Independent Claims		MINUS			x 100 =	x 200 =
Multiple Dependent Claim Present and Fee Not Previously Paid					\$180.00	\$360.00
Total					\$	\$

- ☐ Applicant(s) hereby petition for a _____ month extension(s) of time to respond to the aforementioned Office Action.
- ☒ Applicant(s) believe that no (additional) Extension of Time is required; however, if it is determined that such an extension is required, Applicant(s) hereby petition that such an extension be granted and authorize the Commissioner to charge the required fees for an Extension of Time under 37 CFR 1.136 to Deposit Account No. 500388.
- ☐ Please charge the required fees, or any additional fees required to facilitate filing the enclosed response, to Deposit Account No. 500388 (Order No. PWRSP009).

Respectfully submitted,
BEYER WEAVER & THOMAS, LLP
Desmond Gean
Reg. No. 52,937P.O. Box 70250
Oakland, CA 94612-0250

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Examiner Nguyen T. Ha at facsimile telephone number (703) 872-9306 on February 10, 2005.

Printed Name: Tomika Thomas

Signed: **RESPONSE TO ELECTION/RESTRICTION REQUIREMENT**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Restriction Requirement dated 11 January 2005, Applicants hereby elect, with traverse, Group I (Claims 1-12 and 20), Species I (Embodiment I; figures 4A-4B) to prosecute in the above-identified patent application.

The Examiner identified three distinct species of the claimed invention, Species I (Embodiment I) corresponding to Figures 4A-4B, Species II (Embodiment II) corresponding to Figures 5A-5B, and Species III (Embodiment III) corresponding to Figures 6A-6C.

Claims 1-15 and 20 are believed to be readable on the capacitor device package 400 of Figures 4A-4B (Species I). Claims 1-13, 16, 17, and 20 are believed to be readable on the capacitor device package 500 of Figures 5A-5B (Species II). Claims 1-14 and 18-20 are believed to be readable on the capacitor device package 600 of Figures 6A-6C (Species III).

Notwithstanding the foregoing election, the Applicants believe claims 1 and 20 to be generic to all identified species in that each of the capacitor device packages (e.g., 400, 500, 600) shown in Figures 4A-4B, 5A-5B, and 6A-6C include active balancing circuitry (e.g., 406, 506, 606, Figures 1A-1B) that comprises a first terminal, a second terminal, a third terminal, and an active element configured accordingly as claimed. For similar reasons, claims 2-13 also read on all identified species.

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The Examiner claimed that the inventions Group I (Claims 1-12 and 20) and Group II (Claims 13-19) are distinct because the inventions are related as process of making and product made. Further, the Examiner claimed that the inventions have acquired a separate status in the art as shown by their different classifications (Group I - class 315, subclass 291 and Group II - class 361, subclass 303); thus, indicating that the restriction is proper for examination purposes.

With respect to Groups I and II, Applicants respectfully traverse the restriction. Group I is drawn to class 315, subclass 291, which are systems that include means to regulate the current and/or voltage supplied to the load device. Group II is drawn to class 361, subclass 303, which are subject matter wherein the capacitor has a fixed value of capacitance with significant details of the capacitor electrodes. However, claim 13 of Group II is drawn to a capacitor device package that merely incorporates the module and capacitors of claim 1. In addition, the search class/subclass for Group II does not appear to resonate with the claim language. Thus, Applicants submit that the scope of the search that will be performed for Group I should also suffice for Group II.

Based on the foregoing, Applicants submit that Groups I and II are related and may be reasonably searched within the bounds of a single search, and respectfully request that restriction between Groups I and II be removed for any future prosecution.

Further, in order for a restriction requirement to be proper, there must be a serious burden on the Examiner. According to MPEP 803, "If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." In this case, any appropriate search of the Group I claims should reasonably cover the invention recited in the Group II claims as well. Both inventions involve subject matter having a common usage - controlling voltage imbalances between a pair of capacitors. Hence, it is respectfully submitted that it would not be a serious burden on the Examiner to search both claim groups simultaneously.

Withdrawal of the restriction requirement between Groups I and II is respectfully submitted.

If any fees are due in connection with the filing this Response to Election/Restriction Requirement, the Commissioner is hereby authorized to charge such fees to Deposit Account 500388 (Order No. PWRSP009).

Respectfully submitted,
BEYER WEAVER & THOMAS, LLP


Desmond Gear
Registration No. 52,937

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